

HOUSE BILL 2217
By Joyce

AN ACT to amend Tennessee Code Annotated, Title 67, relative to taxation.

WHEREAS, The General Assembly finds that the Tenth Amendment of the United States Constitution defines the total scope of federal power as being that specifically granted by the federal constitution and no more and the General Assembly recognizes that the United States Congress has the right to lay and collect taxes under the federal constitution. The General Assembly finds, however, that the Congress does not have the right under the federal constitution to withhold from the States the benefits of those taxes through unconstitutional mandates; and

WHEREAS, the General Assembly further finds that the most unconstitutional mandates prohibit Tennessee from implementing programs of excellence that would exceed federal expectations. Tennessee has significant technical expertise in resource management in the areas of air, earth and water, but the persistent threat of sanctions renders that expertise ineffective; and

WHEREAS, in light of the continuing unconstitutional withholding of the benefits of the taxes, the State of Tennessee hereby reasserts its claim of Sovereignty; now, therefore,
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, is amended by adding the following as a new part:

SECTION 2. This act shall be known and may be cited as the "State Sovereignty Act of 1996".

SECTION 3. As used in this act:

- (1) "Person" means natural persons, corporations, partnerships, limited liability companies, associations and other legal entities;
- (2) "Excise tax" means any tax that forms a component of the highway users tax fund;
- (3) "Income tax" means any tax imposed by the federal government on any income earned by a taxpayer; and
- (4) "Liquor or alcohol tax", means any tax imposed by the federal government on any beer, liquor, wine or similar alcoholic beverage.
- (5) There shall be created in the state treasury the "Federal Tax Fund", which shall be an escrow account. Any interest earned on the deposit of monies in the fund along with any civil penalties assessed pursuant to this part shall remain in the fund and shall not revert to the general revenue fund of the state at the end of any fiscal year. The interest earned on the deposit of monies and any civil penalties shall be used to pay any necessary administrative costs incurred pursuant to this act and any excess interest and penalties shall be transferred to the department of transportation.

SECTION 3. Any person liable for any federal excise, income or liquor or alcohol tax shall remit the tax when due along with the federal taxpayer number of such person to the department of revenue for deposit into the fund.

SECTION 4. All monies collected pursuant to this part shall be transmitted to the department of revenue who, as a fiduciary agent, shall credit the same to the Federal Tax Fund on behalf of the person that remitted the tax.

SECTION 5. Except as provided in this part, the department of revenue shall transfer at the end of each month the monies held in the Federal Tax Fund less any interest earned on the deposit to the Internal Revenue Service in payment of the tax obligation of those persons who remitted the tax to the department. As part of the transfer, the commissioner shall identify the

federal taxpayer number and amount received from each person who remitted any tax to the department.

SECTION 6. If the federal government imposes any sanctions on the state for failing to enact legislation required by federal law, which the General Assembly deems to be unconstitutional, by withholding or reprogramming any federal-aid monies from, among other things, highway construction to highway safety or other programs, the treasurer shall not transfer any taxes held in the Federal Tax Fund but shall retain the monies in the fund until such time as the sanctions are lifted. If the lifting of the sanctions occurs within ninety (90) days, the treasurer shall transfer the amounts held in the fund to the Internal Revenue Service within ten (10) days of the lifting of the sanctions. If the sanctions are not lifted within ninety (90) days, the state shall impose a surcharge on the monies in the fund to be used for payment to continue highway project funding.

SECTION 7. Any person who fails to comply with this section shall be subject to a civil penalty in an amount equal to one hundred fifty percent (150%) of the tax owed for each day the person fails to comply with this section. Any civil penalties assessed under this section shall be deposited into the Federal Tax Fund established in this section.

SECTION 8. The provisions of this part shall apply to federal taxes collected after June 30, 1996.

SECTION 9. This act shall become effective July 1, 1996, the public welfare requiring it.

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